

# INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE  
ALCOHOL AND TOBACCO TAX DIVISION

WASHINGTON 25, D. C.

Industry Circular No. 58-33

December 2, 1958

## CLAIMS UNDER SUBPARTS F AND I OF 26 CFR PART 170

Proprietors of distilleries, rectifying plants,  
bonded wine cellars, breweries, taxpaid  
bottling houses, and importers, wholesale  
and retail dealers and others concerned:

Purpose. The purposes of this industry circular are to  
(1) amplify information previously issued concerning claims under  
subparts F and I of 26 CFR Part 170, (2) suggest procedure for  
protection of your right to payment under those subparts where the  
possessor or other person required by regulations to join in your  
claim does not do so, and (3) correct the date stated in Industry  
Circular No. 58-28 as the final date for the filing of claims  
under subpart I.

Background. The claims to which this circular refers are  
those provided for in sections 207 and 208 of Public Law 85-859.  
Section 208 was implemented by subpart F of 26 CFR Part 170 and  
section 207 was implemented by subpart I of 26 CFR Part 170.  
Previous industry circulars regarding such claims were numbered 58-27  
and 58-28. The claims are authorized to be filed in connection with  
losses of beer caused by the floods of 1951 and hurricanes of 1954  
and losses of distilled spirits, wines, rectified products, and beer  
caused by "major disasters" occurring after December 31, 1954, and  
before September 3, 1958.

Amplification of information previously issued. In the interest  
of clarity and to avoid confusion in the preparation and distribution  
of refund checks it is desirable that only one name be shown on the  
Form 843 on the line for the name of the taxpayer. This, of course,  
is not intended to apply where the claim is being filed by part-  
nership. The name appearing on this line should be that of the  
person or company bearing the ultimate burden of the replacement,  
reimbursement, or credit given.

Insofar as signing the claim is concerned, there is room for  
variation in procedure, depending on the specific facts in the case.  
For example, where a claim is filed by a wholesale distributor and  
there is only one or possibly two or three possessors or recipients,  
and they are in the same town as the claimant, there would seem to

be little reason why all concerned could not join in the claim by signing the Form 843, provided the status of each signator is made clear. However, in those cases where the claim is filed by the person or company originally paying the tax and there are a number of possessors joining in the claim, perhaps located in various towns, it may be advisable to have such persons join in the claim by affidavit. This would require that each joiner submit an affidavit to be attached to and made part of the claim in which they would set forth among other things that they are joining in the claim with the person actually submitting such claim. Either of the two methods outlined above is satisfactory.

The most important facts in preparing the claims are that the person or company to whom payment is to be made is set forth clearly and that there be only one such person, partnership, or corporation shown in the line on Form 843 which calls for the name of the taxpayer, and that persons joining in the claim sign the Form 843 or join in by means of an affidavit so stating, depending on which method may prove the most convenient. Such affidavit should also make it clear that those joining will not file another claim covering the same liquors, since it is entirely possible that a possessor or recipient may have to join in more than one claim.

Each claim should be accompanied by supporting data clearly showing the liquors lost in as much detail as is necessary to establish the extent of the loss and as will prevent allowance of more than one claim covering the identical liquors or any part thereof.

Procedure where person expected to join in claim does not do so. This office is now considering and will propose an amendment of subparts F and I of 26 CFR Part 170 to permit assistant regional commissioners to consider claims for allowance when there is satisfactory evidence showing that the joining in a claim by a recipient of replacement, reimbursement, or credit could not be accomplished. If approved by the Secretary of the Treasury, this amendment would afford relief in the instances indicated. Ordinarily, the 6-month statutory period for filing these claims might expire before the proposed amendment can be processed. Accordingly, to be entitled to relief under the proposed amendment, if approved, the claimant should perfect his claim to the greatest

possible extent and file the claim before expiration of the deadline for filing. Such claims should include a statement regarding the identity of the person (or persons) not joining in the claim, the reason for his not joining in, his last known address, and the extent and results of efforts made to obtain compliance. Such claims particularly must set forth all information obtained which was pertinent to the possessor's indemnification by insurance or otherwise against loss of the tax, or tax and customs duty, as the case may be.

Last day for filing claims. The last day for filing claims under subpart F (losses by "major disasters" occurring January 1, 1955, through September 2, 1958) is March 2, 1959. The last day for filing claims under subpart I (beer losses - floods of 1951 and hurricanes of 1954) is March 3, 1959; the statement in Industry Circular No. 58-28 that March 2, 1959, is such last day is incorrect.

Inquiries. Inquiries regarding this industry circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).



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